The Registry of the Competition Tribunal

2009–10

Departmental Performance Report

The Honourable Tony Clement
Minister of Industry

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MINISTER'S MESSAGE

Last year, Canada was the last country to fall into the global recession. Today, our economy is beginning to emerge in the strongest position of any advanced country in the world. Investment and key stimulus measures as part of Year 1 of Canada's Economic Action Plan provided continued results and helped set Canada apart from its G-8 counterparts in terms of economic strength.

In 2009-10, Industry Canada worked quickly with its Portfolio Partners to deliver timely and targeted stimulus initiatives. Composed of Industry Canada and 10 other agencies, Crown corporations and quasi-judicial bodies, the Portfolio helps the department to build a more productive and competitive economy.

Industry Canada continued to support the work of the Competition Tribunal in its judicial role to hear cases dealing with matters related to the Competition Act such as mergers, misleading advertising and restrictive trade practices. As in previous years, the Tribunal acted on matters involving potential effects on competition, including the merger of Suncor Energy Inc. and Petro-Canada, which could have substantially lessened competition and possibly led to increased gasoline prices. In July of 2009, the Competition Tribunal processed an agreement between the parties which will ensure that competition is not substantially lessened as a result of the merger.

Moving forward, Industry Canada will continue to ensure that the jobs and industries of the future are created right here in Canada. We will follow through on delivering existing stimulus plans and continue to support government priorities. This means ensuring that we have the right conditions and regulatory frameworks in place to encourage investment in Canada, increasing support for R&D to improve Canada's long-term competitiveness and developing a digital economy.

I will work with the Industry Portfolio Partners, the private sector and other governments to enhance Canada's productivity and create the foundation for strong, sustainable and balanced growth.

It is my pleasure to present this year's Departmental Performance Report for the Registry of the Competition Tribunal.

Tony Clement
Minister of Industry

SECTION I: DEPARTMENTAL OVERVIEW

Raison d'être

The Competition Tribunal is a quasi-judicial adjudicative tribunal whose sole purpose and raison d'être is to hear and decide all applications related to civil reviewable matters set out in the *Competition Act*: deceptive marketing practices (such as misleading advertising) under Part VII.1 and restrictive trade practices (such as mergers that substantially lessen competition) under Part VIII. The purpose of this legislation is to provide a fair and secure marketplace for Canadians and to maintain and encourage competition in Canada. The Tribunal operates at arm's length from government and its departments. The *Competition Tribunal Act* that establishes the Tribunal also provides for the Registry of the Competition Tribunal, which is the administrative infrastructure to support the proper conduct of the business of the Tribunal.

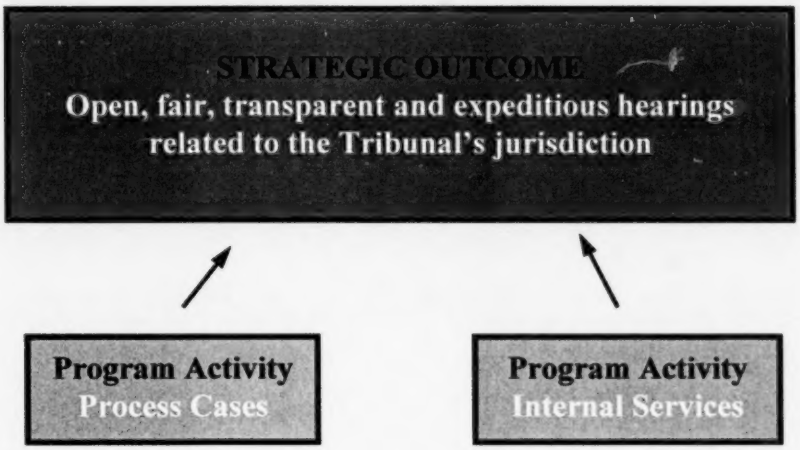
Responsibilities

The Registry of the Competition Tribunal is designated a department under the *Financial Administration Act*. It supports all aspects of the Tribunal's work and ensures the Tribunal can hold hearings anywhere in Canada, as necessary. Registry headquarters are located in the National Capital Region. Parties to Tribunal cases file applications and documents with the Registry, which also issues documents and orders for all cases brought before the Tribunal. This Departmental Performance Report pertains to the activities of the Registry in support of the Tribunal and its deliberations, and not to Tribunal cases themselves.

Since its creation in 1986, the Tribunal has heard cases relating to mergers, abuse of dominant position, deceptive marketing and various trade practices that have involved key players in several industries. Cases have involved a number of business areas, including pharmacies; furniture stores; importers of cast iron pipes; airline computer reservation systems; oil refining and gasoline retailing; community newspapers; aspartame; waste disposal; car parts; marketing research services; green handling services; weight-loss products; fuel-saving devices; fireplace maintenance products; banking services; poultry supply; and career management services.

Strategic Outcome and Program Activity Architecture

The chart below illustrates the Registry of the Competition Tribunal's framework for how its program activities contribute to progress toward its strategic outcome.



Process Cases

The Registry of the Competition Tribunal's main program activity is to process cases by providing the public with efficient access to case documents and decisions, as well as with efficient hearing support services.

The Tribunal hears cases and the Registry manages the material for the cases heard by the Tribunal under Part VII.1 (deceptive marketing practices) and Part VIII (restrictive trade practices) of the *Competition Act*.

Internal Services

Internal Services is an umbrella term for activities under the Registry's administration that meet program needs and other corporate obligations. These activities are: management and oversight services; communications services; legal services; human resources management services; financial management services; information management services; information technology services; real property services; material services; acquisition services; and travel and other administrative services.

Performance Summary

2009–10 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
$2,012	$2,153	$1,368

2009–10 Human Resources (FTEs)

Planned	Actual	Difference
14 FTEs	10.9 FTEs	3.1 FTEs

Strategic Outcome: Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.		
Performance Indicators	**Targets**	**2009–10 Performance**
Client level of satisfaction regarding quality of service	80% or more clients are satisfied with service received from the Registry	Our measure of client satisfaction is usually based on feedback obtained from parties to cases heard by the Tribunal. In 2009–10, numerous hearings took place during the year that all related to the same case. That case will be completed in 2010–11. Informal feedback received has been really positive and no negative feedback was received through the website.
Tribunal members' level of satisfaction regarding quality of service	80% or more of Tribunal members are satisfied with service received from the Registry	The Tribunal members' level of satisfaction reached 90% in 2009-10. Their feedback was obtained on the quality of services provided by the Registry throughout a hearing life cycle, on organization of the members' continuous learning program, and to a lesser extent, on various ad hoc services provided to members.

(thousands of dollars)

Program Activity	2008–09 Actual Spending	2009–10				Alignment to Government of Canada Outcome Area
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Process Cases	$1,221	$1,638	$1,641	$1,779	$882	This program activity links to the Economic Affairs sector of activity of the Government of Canada, particularly the outcome area of a fair and secure marketplace.
Internal Services[1]	$470	$374	$371	$374	$486	
Total	$1,691	$2,012	$2,012	$2,153	$1,368	

[1] Commencing in the 2009–10 Estimates cycle, the resources for the Internal Services program activity are displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Status	Linkages to Strategic Outcome
Review the e-filing services offered to the parties	▪ New	Met all The method of communication of the parties, the volume of transactions and the cost of the current e-filing system was reviewed. An implementation schedule was developed to upgrade the current system to take advantage of improved technology to meet the demands of the parties.	• Open, fair, transparent and expdeditious hearings related to the Tribunal's jurisdiction. The Tribunal's rules of procedure stipulate that the parties must file their documents electronically. Electronic filing of documents is a prerequisite to electronic hearings. The Registry must provide the parties with up-to-date technology to enable them to benefit from expeditious processing of their documents.
Implement digital recording for Tribunal hearings	▪ New	Met all The digital recording system is now operational. Some training was provided to staff and a new contract was issued with a court reporting company to use the Registry's technology to prepare transcriptions. To complete the training, the system will have to be used in parallel with a court reporting company for a few hearings.	• Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction. This initiative contributes to efficient access to case records as well as efficient hearing support services for the Tribunal and the parties.

Develop an Information Technology Asset Management Lifecycle	▪ New	Met all A multi-year asset replacement plan was developed to ensure the Registry can offer reliable and secure technology to the parties while ensuring enough resources were allocated to the processing of cases.	• Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction. The parties have the technology to file documents electronically and perform extensive research using the Internet. They depend heavily on up-to-date technology for their day-to-day operations.

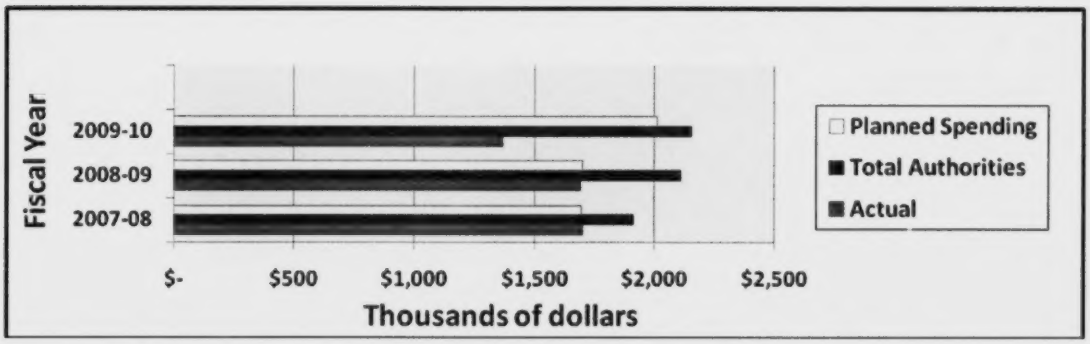
Risk Analysis

The Registry of the Competition Tribunal has a major planning challenge in that the Tribunal can only react to external demands. Its sole function is hearing references and applications and issuing orders, and the number of applications brought before the Tribunal depends on the enforcement policy adopted by the Commissioner of Competition and the number of applications filed by individuals or companies under the private access provisions of the Act.

The demand for services from the Registry has remained relatively stable. As a result of the Competition Policy Review Panel Report released in June 2008, the 2009 federal budget increased the Tribunal's jurisdiction. Some of the major changes include the introduction of a new civil provision to address price maintenance practices that have an adverse effect on competition. The legislation also includes a dual-track approach to deal with agreements between competitors. Certain changes brought forward only became effective in March 2010 therefore the Tribunal's broader jurisdiction did not increase the number of new cases filed during the year.

Registry staff turnover has been minimal during the fiscal year compared with previous years. The Registry continued to provide training to some employees identified as back-ups to key positions to ensure they have the knowledge and abilities required to fulfill additional responsibilities if and when required. A partnership that had been established with the Registry of the Public Servants Disclosure Protection Tribunal was extended to maximize the use of resources and other development opportunities were provided to staff in an effort to retain those in key positions.

Expenditure Profile



The lower than expected utilization of financial resources in 2009-10 resulted from the change in jurisdiction of the Tribunal that became effective in March 2010. There was not enough time in the remaining weeks of the fiscal year for cases to be filed and processed under the new jurisdiction.

Voted and Statutory Items

(thousands of dollars)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2007–08 Actual Spending	2008–09 Actual Spending	2009–10 Main Estimates	2009–10 Actual Spending
1	Operating expenditures	$1,537	$1,566	$1,861	$1,232
(S)	Contributions to employee benefit plans	$161	$125	$151	$136
	Total	$1,698	$1,691	$2,012	$1,368

Actual spending for 2009-10 is 19% lower than 2008-09 because the new jurisdiction of the Tribunal only became effective in March 2010, towards the end of the fiscal year.

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

The Registry of the Competition Tribunal provides all administrative support required for the proper conduct of the Competition Tribunal's business and for the Tribunal to hold hearings anywhere in Canada.

Program Activity by Strategic Outcome

Program Activity: Process Cases					
2009–10 Financial Resources (thousands of dollars)			**2009–10 Human Resources (FTEs)**		
Planned Spending	**Total Authorities**	**Actual Spending**	**Planned**	**Actual**	**Difference**
$1,641	$1,779	$882	10 FTEs	7 FTEs	3 FTEs

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Timely Registry services that provide the public efficient access to case records and decisions.	Percentage of case documents and decisions posted on website within 48 hours of filing.	90% of case documents and decisions posted on the website within 48 hours of filing.	Met all	90% of the documents are posted within 24 hours of filing. The others are posted later after obtaining confirmation that they do not contain confidential information.
Documents are processed according to timeframes established in the Rules of Procedures.	Documents processed within established timeframes.	100% of case documents processed within established timeframes.	Met all	The training provided to Registry staff helped expedite the processing of documents.
Efficient access to electronic hearings of applications.	Percentage increase in use of electronic hearings.	25% increase in the use of the electronic hearing system.	Mostly Met	The types of hearings held before the Tribunal during the year could not have been processed efficiently in an electronic manner. Future hearings will proceed electronically unless directed otherwise by the Tribunal.

Program Activity: Internal Services					
2009–10 Financial Resources (thousands of dollars)			2009–10 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
$371	$374	$486	4 FTEs	3.9 FTEs	0.1 FTEs

The small size of the organization combined with its fluctuating workload causes challenges atypical of large organizations. To maintain an optimum level of service, the Registry must contract out many services such as staffing, compensation and financial systems from large organizations. It implemented a long-term asset replacement plan to ensure it continues to have the infrastructure it needs to support the work of the Tribunal as expeditiously as possible. The Registry updated 16 policies and procedures in line with changes resulting from Treasury Board's work to reduce the web of rules.

Benefits for Canadians

In view of the mandate of the Competition Tribunal, the Registry was not involved in the delivery of initiatives that were part of Canada's Economic Action Plan. However the jurisdiction of the Tribunal was expanded via a number of changes to the Competition Act. These changes will help create a more competitive business environment and enhance the ability of Canadian firms to participate in global markets.

By supporting the Tribunal in its conduct of open, fair, transparent and expeditious hearings, the Registry of the Competition Tribunal contributes to the Government of Canada outcome area of a fair and secure marketplace. Conducting proceedings in a timely manner is key to keeping Canadian businesses competitive. The outcomes of Tribunal proceedings may be felt by all Canadians because the decisions help promote the efficiency and adaptability of the Canadian economy on issues related to the Tribunal's jurisdiction.

Performance Analysis

Program Activity: *Process Cases*

The Registry of the Competition Tribunal does not have control over the number of proceedings filed. It can only react to the number of applications filed by the parties. There was an increase in the number of filings in 2009–10 compared with 2008–09. This is mainly due to the number of consent agreements filed at the Tribunal. One proceeding was ongoing at the end of this fiscal year; it will be completed in 2010–11.

Number of Proceedings

	2008–09	2009-10
Number of proceedings filed	11	**19**
Number of proceedings completed	12	**19**
Number of proceedings filed from previous year and still ongoing	1	**1**
Number of decisions rendered	32	**19**

Program Activity: ***Internal Services***

Employee turnover was lower than last year, providing better continuity and enabling the organization to update some of its policies and procedures, as well as allowing the allocation of more resources toward employee development. Learning plans were developed for every employee and financial resources were committed to support the developmental objectives of all staff.

The Registry's corporate risk profile was reviewed and updated and strategies to mitigate risk were developed to ensure uninterrupted registry service will continue to be provided to Tribunal members, parties to cases and Canadians by well trained registry officers and legal advisors.

Lessons Learned

The number of documents filed through the Registry's website-based e-filing system has decreased slightly. The e-filing system is working properly but the parties seem to prefer to communicate with the Registry by regular email when security and size limitations permit. To encourage the parties to take advantage of the additional security the e-filing system provides, as well as its capacity to handle much larger documents than email, the Registry is considering reducing the amount of information to be entered by the parties when they submit their documents electronically. To increase the compatibility with other operating software, the Registry is upgrading the technology being used to support the e-filing system.

SECTION III: SUPPLEMENTARY INFORMATION

Financial Highlights

(thousands of dollars)

Condensed Statement of Financial Position At end of Fiscal Year (March 31, 2010)	% Change	2008–09	2009–10
ASSETS		260	274
TOTAL	6%	260	274
LIABILITIES	38%	450	326
EQUITY	73%	(190)	(52)
TOTAL	6%	260	274

(thousands of dollars)

Condensed Statement of Financial Operations At end of Fiscal Year (March 31, 2010)	% Change	2008–09	2009–10
EXPENSES	(4%)	2,181	2,097
REVENUES	0%	0	0
NET COST OF OPERATIONS	(4%)	2,181	2,097

The amount reported under assets increased because of an investment in some information technology components required to support the Tribunal's e-filing and e-hearing activities. Total expenses are marginally lower than last year but they are in line with the level of complexity of the new proceedings filed this year compared with last year.

Financial Statements

The Registry of the Competition Tribunal's financial statements can be found on the Tribunal's website: www.ct-tc.gc.ca.

Contact Information

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